

**Memorandum of Agreement Between the New York State  
Department of Environmental Conservation  
and the U.S. Environmental Protection Agency  
for the TRI State Data Exchange**

**1 Overview – Exchange of TRI Data**

This agreement is a voluntary agreement between the New York State Department of Environmental Conservation, hereinafter referred to as the State, and the US Environmental Protection Agency, with the US Environmental Protection Agency Toxics Release Inventory Program Division acting as a representative for the Agency and hereinafter referred to as EPA, for the exchange of Toxics Release Inventory (TRI) data via the National Environmental Information Exchange Network, hereinafter referred to as the Exchange Network.

**2 Purpose**

The purpose of this Memorandum of Agreement (MOA) is to outline the specific roles and responsibilities between the State and EPA for the purposes of successfully transmitting TRI data via the Exchange Network. This MOA addresses two categories of data:

(1) facility reports filed electronically using EPA's Central Data Exchange (CDX), where reports are accepted and simultaneously transmitted to participating states. Reports filed in this manner represent a facility's official submission to both EPA and the state.

(2) facility reports submitted on diskette, or paper, or reports submitted by facilities using CDX for the first time. EPA must take additional processing steps to enter and/or format the data received in this manner so it can be electronically forwarded to states. This type of submission does not constitute official simultaneous submission to the state agency and facilities must continue to submit separate reports directly to their state.

This agreement does not supersede any existing agreement between the State and EPA, nor any future Memorandum of Agreement between the State and EPA.

**3 Background**

In 1986, the Emergency Planning and Community Right-to-Know Act was enacted including Section 313, which created the Toxics Release Inventory. Under Section 313(a) of EPCRA, certain covered facilities are required to submit annual toxic chemical release forms to EPA and to "an official or officials of the State designated by the Governor." 42 USC § 11023(a). EPCRA requires that EPA "establish and maintain in a computer data base a national toxic chemical inventory based on data submitted ... under this section." 42 USC § 11023(j). EPCRA is silent as to what state recipients of TRI data should do with TRI data but individual states may have state laws or policies that govern the use of TRI data received by the State.

When submitting TRI data, TRI facilities may choose between several mechanisms including submission via EPA's Central Data Exchange (CDX), submission via diskette, and submission of paper forms.

When a TRI facility submits TRI data through CDX (via TRI-ME) and the facility's state is a participant in the TRI State Data Exchange, the facility's data is simultaneously submitted to both EPA and their state and the facility's statutory duty has been met.

When a TRI facility submits TRI data on diskette, paper or through CDX for the first time, a second data flow allows the data to be forwarded the state. The intention of the second data flow is to reduce the data processing burden on participating states. For this data, states have the option to rely on paper and disk submissions inputted by EPA rather than duplicating the processing of these submissions at the state level. If a facility chooses to submit via paper or diskette or is filing using CDX for the first time, the facility is responsible for submitting the data separately to both EPA and the State, even when the facility is located in a State that participates in simultaneous CDX reporting. Simultaneous exchange is not available to first-time CDX filers because certain administrative steps (assigning a TRI Facility Identification Number (TRIFID)) need to occur before data can be forwarded to the state and the data cannot, therefore, be sent directly from the facility to the state via CDX.

## **4 Participant Responsibilities**

### **4.1 Data Exchange Mechanism and Schedule**

As described above, this MOA addresses two types of data and their respective data flows.

#### **4.1.1 Reports filed electronically via CDX and simultaneously transmitted to participating states**

This data is initially submitted by a facility reporting to the TRI program via EPA's CDX using the TRI-Made Easy (*TRI-ME*) reporting tool. From CDX, the data is date-stamped and converted into a TRI XML format and then automatically transferred to the state node. The exchange uses a "push" model in which the "raw" data entered by a TRI facility into CDX is automatically transferred to the state's node without any data quality corrections performed by EPA. The data is transferred on a facility-by-facility basis as it is received by CDX. The state node responds to a successfully-submitted report by sending a transaction identification number back to the CDX node. If the initial push of data to the state node fails, CDX will resend the submission based on its standard operating procedures.

When CDX successfully receives a facility transmission, CDX sends an email to the reporting facility confirming that the data submission to CDX has been successful and that the facility data automatically will be forwarded to the state. The email confirms that the facility has fulfilled their obligation to report to both EPA and the State in accordance with EPCRA. The state may choose to send a second confirmation email to the reporting facility confirming the successful receipt of the report by the state node.

#### **4.1.2 Reports filed via paper, diskette, or by first-time CDX filers**

These reports are initially sent to EPA by a TRI facility via paper or diskette or by a facility filing using CDX for the first time.

##### **Reports Filed Via Diskette**

TRI data submissions that are received on diskette (or other electronic media such as CD-ROM) at the TRI Data Processing Center (DPC) will be forwarded directly to the CDX node prior to being loaded into the Toxics Release Inventory Information System (TRIS) database. The diskette data, which will



have already passed data validation testing in the TRI-ME data submission application, will be scanned for viruses and copied to a holding directory. It will then be forwarded to the CDX node. CDX will convert the data to XML based on the TRI State Data Exchange schema. The data is then pushed to the State node. A flag will be attached to the data to indicate the data's origin (diskette received at the TRI Data Processing Center).

### **Reports Filed Via Paper**

Certified TRI reports submitted via paper are entered into TRIS and processed (e.g., including undergoing data validation checks, data quality checks, facility reconciliation checks, etc.). After processing is complete, the data are extracted from TRIS in the form of XML documents/files using the TRI State Data Exchange Schema. The data is then transferred to CDX and subsequently pushed to the State node. A flag will be attached to the data to indicate the data origin (paper received at the TRI Data Processing Center).

### **First-Time CDX Filers**

All facilities may use CDX to submit their data; however, for facilities using CDX for the first time, a wet-ink signature must be mailed to the Agency for certification purposes. (In addition, for facilities filing for the first time in any format, a TRIFID must be assigned to the facility before data is uploaded to the TRIS processing database.) Due to this extra processing step, the data cannot be simultaneously forwarded to the State through the TRI State Exchange Network at the time the facility submits it through CDX. Instead, the data will be loaded into TRIS, a TRIFID will be assigned if needed, and the data will be processed. The data then will be extracted in XML form, sent to CDX, and subsequently forwarded to the State's node. A flag will be attached to the data to indicate the data origin (first-time CDX filer).

The data received through the methods listed above are transferred on a facility-by-facility basis as received and processed by EPA. The State node responds to a successfully submitted report by sending a Transaction ID back to the CDX node.

## **4.2 Data Stewardship**

The stewardship responsibilities of the two parties are described and acknowledged by this agreement. EPA agrees to be the steward for all TRI data submitted through CDX to the State. The State maintains oversight responsibility for this data. Each party agrees to provide notification and documentation to the other partner when either decides that data quality, completeness, or timeliness has fallen short of expectations.

## **4.3 Use of Data, Access to Data**

CDX transfers TRI data to the State node according to the protocols established in the published Exchange Network protocol and specifications. CDX also retains a copy of the submitted data for processing into EPA data systems. The State may use this data as defined by the State's business processes.

Note, however, that the data from reports filed via paper, diskette, or from first-time CDX filers has not been compared to analogous data the State should have received separately from each facility. Although each facility must submit the same data to both the EPA and the State apart from any additional data

required under State law, EPA has no way to verify that the data EPA receives is the same as the data the State receives. EPA provides data to the State prior to public release to allow the State's internal use, such as data reconciliation or early insights into changes in the data.

#### **4.4 Consultation**

Prior to the annual Public Data Release (PDR) for the data at issue, the State agrees to consult with EPA, specifically the TRI Program Division Director, before releasing to the public any paper, diskette, or first time CDX filer data that has been electronically forwarded to the state. The State will consult with EPA in writing and address the State's plans for releasing the data including when and why they plan to release the data, and any major issues or findings.

#### **4.5 Data Elements**

The TRI data referred to in this document include the data elements found on TRI Forms R and A. These data elements are described in the TRI Flow Configuration Document (FCD), which serves as the technical reference for the TRI State Data Exchange.

#### **4.6 Standards and Technology**

EPA and the State agree to exchange data using Web services technology as defined in the Exchange Network protocol and specification documents. The TRI State Data Exchange configuration is explained in detail in the FCD. TRI State Data Exchange participants agree to adhere to the technologies and exchange protocols as defined in the FCD.

#### **4.7 Security**

This data exchange is encrypted by the EPA-CDX for security purposes. The data is formatted in the TRI XML schema that is registered with the Exchange Network and is sent from EPA's Central Data Exchange Node to the State Node using secure protocols. A step-by-step description of security authentication is available in the FCD.

The data exchanged under this agreement are not confidential. The information is approved for public distribution and made available on a public internet website. Information claimed to be trade secret as defined by Section 322 of EPCRA and confidential business information (CBI) or trade secrets submitted to support a Section 322 trade secrecy claim is not to be transmitted over the Exchange Network. See 42 USC § 11042. Confidential business information or trade secrets are managed by EPA in a separate processing system meeting CBI requirements.

#### **4.8 Data Source and Data Quality**

##### **4.8.1 Reports filed electronically via CDX and simultaneously transmitted to participating States**

For reports filed electronically via CDX by facilities that have used CDX in the past, the data source is the TRI data reported by facilities that opt to use EPA's *TRI-ME* reporting tool beginning with the reporting year this MOA is signed. Revisions to previous years' submissions are not automatically transferred to the State node as described in this agreement. Revisions to Reporting Year 2005 and subsequent years' data submitted through CDX will be automatically transferred to the State node.



EPA and the State agree to cooperate to ensure that the data being exchanged is an accurate and complete replica of the data submitted as certified by the reporting facility. The process outlined in the section Dispute Resolution applies to reconciliation of data duplicates, discrepancies, or other quality issues. Individual submissions are tracked using a transaction identification number supplied by CDX.

#### **4.8.2 Reports filed via paper, diskette, or by first-time CDX filers**

For paper, diskette and first-time CDX reports, the data source is TRI data reported by TRI facilities beginning the year this MOA is signed. Revisions to previous years' submissions are not automatically transferred. EPA and the State agree to cooperate to ensure that the data being exchanged are an accurate and complete replica of the data submitted to EPA as certified by the TRI facility. Note that the data from reports filed via paper, diskette, or from first-time filers sent under this program represents data that facilities have submitted to EPA. Facilities are also required to submit this data to their appropriate State agency. To fulfill its federal reporting requirements, the facility must submit the same data to both the EPA and the State, apart from any additional data required under State law. EPA makes no claims as to the consistency between the paper, diskette, and first time CDX filer data EPA transmits to the State via CDX and the paper or diskette data facilities submit separately to the State to meet their reporting obligations.

The process outlined in the Dispute Resolution section applies to reconciliation of data duplicates, discrepancies, or other quality issues. Individual submissions are tracked using a Transaction ID supplied by the State node.

#### **4.9 Data Timeliness**

##### **4.9.1 Reports filed electronically via CDX and simultaneously transmitted to participating States**

Data submitted through CDX by facilities that have previously used CDX is converted to XML and pushed from CDX to the State node automatically on a facility-by-facility basis. Based on pilot testing of the TRI data exchange, it is expected that the data will be submitted to the State node within several minutes of its receipt through the CDX. For enforcement purposes, EPA and State agree that the date-stamp attached to a submission when it is successfully received will act as the date-received for State.

##### **4.9.2 Reports filed via paper, diskette, or by first-time CDX filers**

Data that is submitted on paper, diskette, or by first-time CDX users is converted to XML and pushed from CDX to the State node as they are processed by the TRI Data Processing Center on a facility-by-facility basis. States receive these data separately from this exchange and should consult those separate submissions for enforcement purposes.

#### **4.10 Data Reconciliation**

If at any time one of the partners finds a technical problem with accuracy, completeness, or timeliness of submissions, they should alert the other party. If technical problems cannot be resolved in a timely manner for retransmission to the State node, another method of transmission will be used to forward facility data to the State.

#### **4.11 Dispute Resolution**

If at any time one of the partners finds a problem with data quality or completeness, they should start the resolution procedures.

The State and EPA data administrators agree to resolve disputes whenever possible. (Data administrators are those assigned with the overall management of TRI data in his or her agency.) The data administrator agrees to contact his or her counterpart, either by telephone, email, or in writing. If the data administrators cannot resolve the dispute within two weeks, they agree to bring it to the attention of their immediate supervisors.

### **5 Financial Arrangements**

**5.1** All commitments made in this agreement are subject to the availability of appropriated funds and EPA's budget priorities. Nothing in this agreement, in and of itself, obligates EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or to incur other financial obligations. Any endeavor involving reimbursement or contribution of funds between the parties to this agreement will be handled in accordance with applicable laws, regulations, and procedures, and will be subject to separate subsidiary agreements that will be effected in writing by representatives of both parties.

**5.2** EPA may not endorse the purchase or sale of products and services provided by private organizations that become partners in this effort.

**5.3** In accordance with Section 41 of the New York State Finance Law, the New York State Department of Environmental Conservation shall have no liability under this Memorandum of Agreement to the United States Environmental Protection Agency or to anyone else beyond funds available for this Memorandum of Agreement.

### **6 Period of Agreement**

This agreement is intended to facilitate the exchange of data between the State and EPA and is not intended to and does not create any right or benefit, substantive or procedural, enforceable by law or equity against EPA, the State, their officers or employees, or any other person.

This Memorandum of Agreement will commence on April 1, 2009 and will remain in effect until March 31, 2019.

### **7 Legal Framework – Disclaimer**

This is a voluntary non-binding agreement between the State and EPA regarding the exchange of TRI data through the Exchange Network. This agreement does not fulfill any specific federal reporting requirements and participation does not supersede any data or information management and reporting requirements of any grant, contract, or other agreement.



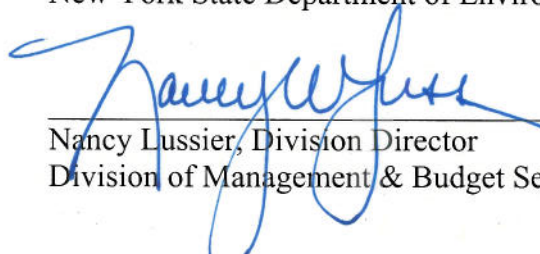
## 8 Points of Contact

The following individuals have been identified as points of contact within each participating agency:

<b>NYSDEC Primary Contact</b> Name: Elaine Zuk Title: Chief, Information Management Section, Division of Environmental Remediation Agency: NYSDEC Phone: (518)402-9553 Email: emzuk@gw.dec.state.ny.us	<b>EPA Primary Contact</b> Name: Juan Parra Title: TRI State Data Exchange, Project Lead Agency: EPA Phone (202)566-0499 Email: Parra.Juan@epa.gov
<b>NYSDEC Alternate Contact</b> Name: Andrew English Title: Director, Bureau of Technical Support, Division of Environmental Remediation Agency: NYSDEC Phone: (518)402-9543 Email: ajenglis@gw.dec.state.ny.us	<b>EPA Alternate Contact</b> Name: Dipti Singh Title: Chief, Information Outreach Branch Agency: EPA Phone: (202) 566-0739 Email: Singh.Dipti@epa.gov


## 9 Approvals

New York State Department of Environmental Conservation

  
\_\_\_\_\_  
Nancy Lussier, Division Director  
Division of Management & Budget Services

3/31/09  
Date

US EPA Headquarters

  
\_\_\_\_\_  
Michael Petruska, Division Director,  
Toxics Release Inventory Division,  
Office of Information Analysis and Access

3/09/09  
Date